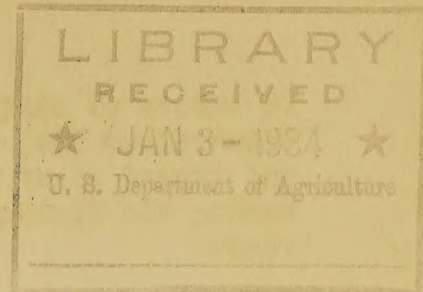


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WINE PRODUCERS ASSOCIATION

CODE OF FAIR COMPETITION



ARTICLE I.

Purposes

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is submitted as a Code of Fair Competition for the wine industry, and upon approval by the President, its provisions shall be the standards of fair competition in such industry and shall be binding upon every member thereof.

ARTICLE II.

Definitions.

The term "wine industry" as used herein includes any person, firm, copartnership or corporation holding an "A" permit from the United States Government, Bureau of Industrial Alcohol, or its equivalent, and engaged principally in the processing and/or preparation for market and/or the shipping and/or the selling of wine and/or grape products, whether manufacturing, transporting, selling and/or distributing at wholesale or retail wine and grape products, exclusive of raisins and dried grapes, and such related branches and subdivisions as may from time to time be included under provisions of this Code by the President of the United States after such notice and hearing as he may prescribe.

The term "wine industry" includes without limitation any individual, partnership, association, corporation or other form of enterprise engaged in the industry either as employer or on his or its own behalf.

The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

The term "Secretary" as used herein means the Secretary of Agriculture of the United States of America or his duly authorized representative.

The terms "Act" and "Administrator" as used herein mean respectively Title I of the National Industrial Recovery Act and the Administrator for Industrial Recovery.

Population for the purposes of this Code shall be determined by reference to the United States Census of 1930.

ARTICLE III.

Hours

MAXIMUM HOURS

Section 1. No employee, except watchmen, shall be permitted to work

in excess of sixty (60) hours in any one week or ten (10) hours in any twenty-four (24) hour period beginning at midnight. A normal work day shall not exceed eight (8) hours. The maximum hours permitted shall apply only during the Vintage Season and shall not exceed twelve (12) weeks in any one year.

HOURS FOR CLERICAL AND OFFICE EMPLOYEES

Section 2. No person employed in clerical or office work shall be permitted to work in excess of forty-eight (48) hours in any one week or eight (8) hours in any twenty-four (24) hour period. A normal work day shall not exceed eight (8) hours.

EXCEPTIONS TO HOURS

Section 3. The provisions of this Article shall not apply to traveling salesmen or to employees engaged in emergency maintenance or emergency repair work, or to persons employed in a managerial or executive capacity who are earning not less than Thirty-five Dollars (\$35.00) per week.

The provisions of this Article shall not apply during any period where due to rain, storm, or other cause beyond control it is necessary to operate the plant continuously in order to prevent spoilage of the raw materials.

Section 4. Watchmen. Watchmen may be employed twelve (12) hours in any twenty-four (24) hour period.

STANDARD WEEK

Section 5. No employee, except watchmen, shall be permitted to work more than six (6) days in any seven (7) day period, except during the Vintage period and as hereinabove described.

EMPLOYMENT BY SEVERAL EMPLOYEES

Section 6. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers in this industry, exceeds the maximum permitted herein.

ARTICLE IV.

Wages

MINIMUM WAGES

Section 1. No employee except clerical help, office boys, watchmen, or female employees specified in Section 7 of this Code, shall be paid in any pay period less than at the rate of forty cents (40¢) per hour, except in towns having population not exceeding 300,000 nor less than 50,000 in which case no employees shall be paid in any pay period less than at the rate of thirty-five cents (35¢) per hour, and in towns of less than 50,000 population not less than thirty cents (30¢) per hour.

Section 2. Accounting, clerical, office, service, and sales employees, except outside salesmen, shall not receive less than Fifteen Dollars (\$15.00) per week in any city of 300,000 population or more, not less than Fourteen Dollars and Fifty Cents (\$14.50) per week in any city between 100,000 and 300,000 population; nor less than Fourteen Dollars (\$14.00) per week in any city between 2,500 and 100,000 population; and in towns of less than 2,500 population not less than Twelve Dollars (\$12.00) per week.

Section 3. Watchmen engaged in the protection of premises shall receive at least Twenty-five Cents (25¢) per hour.

PIECEWORK COMPENSATION - MINIMUM WAGES

Section 4. This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is actually compensated on a time basis, piece-work, or other basis.

MINIMUM WAGE RATES BY LOCALITY AND/OR OCCUPATION

Section 5. After the approval of this Code, the Code Authority may present for the approval to the Administrator, after notice and hearing, recommendations as to upward adjustments in minimum wages for specified localities and/or occupations in order to effectuate the purposes of this Act.

WAGES ABOVE MINIMUM

Section 5. There shall be an equitable adjustment of all wages above minimum, and to that end, within sixty (60) days from the approval of this Code, the Code Authority shall submit for the approval of the Administrator a proposal for adjustment in wages above the minimum. Upon approval by the Administrator, after such hearing as he may prescribe, such proposal shall become binding as a part of this Code, provided, however, that in no event shall hourly rates of pay be reduced.

FEMALE EMPLOYEES

Section 7. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees, except women engaged in light work such as wrapping and/or packing, the rate shall not be less than Thirty Cents (30¢) per hour.

HANDICAPPED PERSONS

Section 8. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

ARTICLE V.

General Labor Provisions.

CHILD LABOR

Section 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within thirty (30) days from the approval of this Code a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

PROVISIONS FROM THE ACT

Section 2. In compliance with Section 7 (a) of the Act it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

RECLASSIFICATION OF EMPLOYEES.

Section 3. No employer shall reclassify employees or duties of occupation performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of this Act or of this Code.

STANDARDS FOR SAFETY AND HEALTH.

Section 4. Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

STATE LAWS

Section 5. No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

POSTING

Section 6. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE VI

Organization, Powers and Duties
of the Code Authority

ORGANIZATION AND CONSTITUTION

There shall forthwith be constituted a Code Authority consisting of fourteen (14) persons, who shall serve for one year and until their successors are selected or qualified, to be selected in the following manner:

The fourteen (14) members to be selected from among and by those engaged in the manufacture of wine products. Every elected member of the Code Authority shall be actually engaged as a manufacturer of wine products at the time of his election and shall immediately tender his resignation should at any time subsequent and during his term of office he ceases to be so engaged. For the purpose of electing members of the Code Authority, the United States shall be divided into the following grape production areas: California, New York, Ohio-Pennsylvania, and Michigan. The production areas will have representation on the Code Authority in accordance with the following allocation:

PRODUCTION AREA

Number of Representatives on Code Authority

| <u>California</u> | <u>New York</u> | <u>Ohio-Pennsylvania</u> | <u>Michigan</u> |
|-------------------|-----------------|--------------------------|-----------------|
| 10 | 2 | 1 | 1 |

In the selection of the Code Authority for the California production area, the following districts shall have representatives on the Code Authority elected as follows:

1. At large
2. From Southern California District, south of Tehacapi Mountains
2. From Southern San Joaquin District, and shall include that territory north of the Tehacapi Mountains as far as the northern boundary of Stanislaus County.
2. From Northern San Joaquin District, including San Joaquin, Sacramento and Placer Counties.
1. From Sonoma and Mendocino Counties.
1. From Napa, Solano and Yolo Counties.
1. From Santa Clara, Alameda, Contra Costa, Santa Cruz, and San Benito Counties.

Each processor in the California production area shall have the right to cast the same number of votes as there shall be Code Authority representatives in his grape production district.

Any processor who is not in the confines of any of the above designated grape production areas shall have the privilege of voting for a Code Authority in any one grape production area which he may select, and shall have the privilege of voting for the same number of representatives on the Code Authority as other members of said district.

Each processor in each grape production area shall have the right to cast the same number of votes as there shall be Code Authority representatives in his grape production area.

For the purpose of vote, where two or more processors are owned and controlled by the same interests, or are under substantially the same control and management, then such members shall vote as a unit and shall be entitled to only one (1) vote for members of the Code Authority.

Members of the Code Authority shall be subject to the approval of the Secretary. The Secretary and Administrator may each appoint a person as a non-voting member of the Code Authority. Any vacancies occurring in the membership of the Code Authority shall be filled for the unexpired term by the vote of the Code Authority and such new members shall be subject to the approval of the Secretary.

In the selection of the Code Authority a vote cast by mail or by proxy shall have the same force and effect as a vote cast at a meeting.

The Code Authority shall have as its Chairman one of its members duly elected by the Code Authority. The Code Authority is hereby vested with power to adopt such rules for the Administration and supervision of the provisions of this Code not inconsistent with the provisions thereof.

Such Code Authority is hereby empowered to delegate subject to the approval of the Secretary and/or Administrator any of its authority hereunder as it may see fit.

RULES, REGULATIONS AND DECISIONS

Section 2. Rules, regulations and decisions of the Code Authority pertaining to the provisions of this Code, other than labor provisions, shall be submitted for the consideration of the Secretary of Agriculture, and said rules, regulations and decisions shall be subject to his disapproval.

Rules, regulations and decisions of the Code Authority effecting labor provisions of this Code shall be submitted for consideration to the Administrator, and such rules, regulations and decisions shall be subject to his disapproval; provided, that if such disapproval is not announced within ten (10) days, the Code Authority may act in accordance with such rules, regulations and decisions, until such time as the rules, regulations and decisions shall be disapproved.

The Code Authority shall be charged with administering, supervising, and promoting the provisions of this Code, and may with respect thereto make such investigations as hereinafter provided.

The members of the industry and the Code Authority shall use their best efforts to insure the observance of the provisions of this Code.

It shall be the duty of the Code Authority to investigate any specific charges of alleged violation of this Code which shall come to the knowledge of the Code Authority through any reliable course. The Code Authority shall investigate by calling members of the industry, whose transactions are under investigation, and shall secure statement under oath of such members of the industry. The Code Authority shall warn the alleged violators or report such violation to the Secretary and/or Administrator upon the finding of the Code Authority that the charges are based on fact and it shall be the duty of the Code Authority to request the Secretary and/or Administrator to take such action as he deems necessary.

No member of the Code Authority or its duly constituted agent or agents shall be held responsible individually in any way whatsoever to any processor or any other person for errors, mistakes or other acts of commission or omission, except for his own acts of individual dishonesty.

EXPENSES

The Code Authority is authorized to incur such expenses and make such expenditures as may be necessary in the performance of its functions as outlined in this Code in accordance with a Budget to be made available to members of the industry, and each member of the industry voting for a representative on the Code Authority shall at the same time agree to pay his equitable pro-rata share of the costs of administration of this Code in accordance with rules, regulations and decisions to be adopted by the Code Authority with the approval of the Secretary and/or Administrator.

ARTICLE VII

Trade Practice Rules

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry.

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of wine and/or grape products, advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or interference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any product that is misbranded. Wine products shall be deemed to be misbranded:-

(a) Food and Drugs Act Requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of fill. If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Label requirements. No member of the industry shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, size, origin, substance, character, nature, material, content or preparation of such goods.

ARTICLE VIII.

Export Trade

Section 1. No provision of this Code relating to prices or terms of selling, shipping or marketing, shall apply to export trade or sales or shipments for export trade.

Section 2. Subject to the approval of the Code Authority, the exceptions established by this section shall apply also to sales or shipments of materials actually used in manufacture for export trade.

ARTICLE IX.

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

Section 2. This Code, except as to provisions required by law, may be modified on the basis of experience, or changes in circumstances, such modification to be based upon application to the Secretary and/or Administrator and such notice and hearing as he shall specify, and to become effective upon approval of the President.

ARTICLE X.

Monopolies

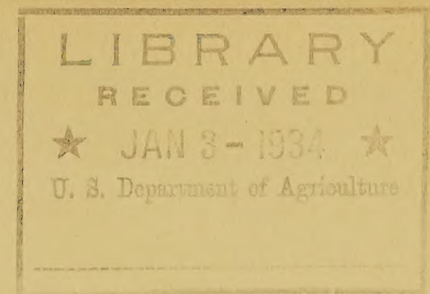
No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XI.

Effective Date

This Code shall become effective on the second Monday after its approval by the President.

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CODE OF FAIR COMPETITION FOR THE

WINE INDUSTRY

Revised Draft, December 15, 1933,

as suggested by

The President's Special Committee

on Control of Alcohol and

Alcoholic Beverages

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CODE OF FAIR COMPETITION FOR THE WINE INDUSTRY

(Exclusive of Provisions Relating to Hours of Labor, Rates of Pay, and other Conditions of Employment.)

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources --

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries --

NOW THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the wine industry (exclusive of provisions relating to hours of labor, rates of pay and other conditions of employment), and upon approval by the President shall constitute standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the approval of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the wine industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of wine in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code, --

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The terms "wine industry" and "industry" mean (1) the production of wine, or (2) the crushing of fresh grapes, or the making of must or grape concentrate to be used for the production of wine, or (3) the fortification of wine, or (4) the distillation of brandy for fortification of wine and not for sale except to another member of the industry for purposes of fortification, or (5) the blending, bottling, warehousing, or other handling or distribution of wine or the sale of other disposition thereof except at retail, by a vintner or an affiliate or subsidiary thereof. The terms "wine industry" and "industry" shall not be construed to include the performance of any of the above functions or operations for non-commercial purposes.

(e) The term "wine" means wine as defined in Title 26, section 441 and 444 of the Code of the Laws of the United States, as now in force or hereafter amended, and champagne, sparkling wine and artificially carbonated wine, as defined by regulations of the Treasury Department as now or hereafter in effect.

(f) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(g) The term "employer" means any person by whom any such employee is compensated or employed.

(h) The term "member of the industry" means any person engaged in the wine industry as an employer or on his own behalf.

(i) The term "Administration" means the Federal Alcohol Control Administration.

(j) The term "Director" means the director of the Federal Alcohol Control Administration.

(k) The term "Code Authority" means the industry authority established pursuant to this Code.

(l) The term "United States" includes the several States and Territories, the District of Columbia, and Puerto Rico.

(m) The term "State" includes Territory and the District of Columbia.

(n) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(o) The term "subsidiary" means any person, of or over whom a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(p) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

(q) The term "trade buyer" means any buyer of wine, except an ultimate consumer.

ARTICLE III

Mandatory Labor Provisions

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. After such date as the Administration may determine, no person shall engage in the wine industry except pursuant to a permit issued by the Director. Subject to the provisions of section 2 of this Article, each member of the industry shall be entitled to have a permit issued to him upon application therefor, and such permit shall remain in effect during the duration of this Code, unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business; or any right to engage in the manufacture or distribution of wine after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

Section 3. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any wine. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any wine that is misbranded. Wine shall be deemed to be misbranded -

(a) Food and Drugs Requirements. If it is misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If the container is so made, formed, or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If it purports to be or is represented as wine for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) Standards of quality. If it purports to be or is represented as wine for which standards of quality have been prescribed by regulations of the Administrator, and (1) fails to state on the label, if so required by the regulations, the standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) Label Requirements. If in package form and it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purpose of this subsection shall be prescribed by the Administration, but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase wine from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

Section 4. Consignment. The making of or entering into any agreement or contract the effect of which will amount to the shipment or delivery of wine on consignment. "Consignment" as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper and whereby the title to such products remains in the shipper.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay or make an allowance to a trade buyer for a special advertising or distribution service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same class in the same trade area; and (e) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Control of Retail Outlets.

(a) Retail Licenses. To hold ownership, directly or indirectly, after the expiration of existing licenses, of any interest

in any license to sell wine for consumption on the premises covered by such licenses. Nothing herein contained shall apply to licenses issued to members of the industry to give away or sell wine on premises of which the winery is a part.

(b) Loans and Guarantees. To furnish, give or lend any money or other thing of value, directly or indirectly, or through a subsidiary or affiliate or by any officer, director, or firm member of the industry, to any person engaged in selling wine for consumption on the premises where sold, or to any person for the use, benefit or relief of said person engaged in selling as above; or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. Nothing herein contained shall affect the extension of usual and ordinary commercial credits for wine sold and delivered.

(c) Equipment and Fixtures. To furnish, give, rent, lend, or sell any equipment, fixtures, or supplies, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director or firm member of the industry, to any person engaged in selling wine for consumption on the premises where sold.

(d) Signs. (1) To furnish, give, lend or rent any interior decoration other than signs, or to furnish, give, lend or rent any sign or signs, for inside or outside use, costing collectively more than \$100 in any calendar year by any member of the industry, directly or indirectly or through a subsidiary or affiliate, or by any officer, director, or firm member of any member of the industry, for use in or about or in connection with any one establishment on which wine is sold for consumption on the premises where sold.

(2) To pay money or other thing of value for the privilege of placing or painting a sign on the premises occupied by anyone selling wine for consumption on the premises where sold.

(e) Ownership of Real Estate. To hold any interest in any premises acquired after the effective date of this Code on which products are sold at retail for consumption on the premises where sold, unless the holding of such interest is permitted under regulations of the Administration, or a statement of the holding thereof has been filed with the Administration and has not been disapproved by it.

Section 7. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the sellers price.

Section 8. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any retail trade buyer, selling wine for consumption on the premises where sold, handle or sell only the wine of a particular member of the industry.

Section 9. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement, except advertising novelties of nominal value, to either trade or consumer buyers.

Section 10. Sales to Unauthorized Vendors. After notification by the Code Authority, to sell or otherwise dispose of wine to any person who has been declared by the Code Authority to be not authorized by license in full force and effect, to sell, manufacture or distribute such wine, if such a license is required of such person by State law.

Section 11. Violations of State Law. To transport or import wine into any State or political subdivision thereof for delivery, sale, or use there in violation of the law of such State.

ARTICLE VI

Prices and Terms of Sale

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of wine offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale (other than usual periods of credit) of such wine. The Code Authority, subject to the approval of the Administration, may exempt from the provisions of this section, products of the industry if (a) the trade practices surrounding their sale and distribution are such that such products cannot be sold and distributed freely and economically under a system of posted prices as outlined herein, and (b) if it can be shown that the exemption of such products would not interfere with the effectuation of the purposes of this Code.

Section 2. The Code Authority shall file with the Administration a copy of each price list so posted and the Code Authority shall, upon request, make available such price lists to the trade and consumer buyers.

Section 3. No sale or other disposition of any wine shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect, if prices and terms with respect to such wines are required under this section to be posted.

Section 4. No member of the industry shall sell products of the industry upon prices or terms, or post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage directly or indirectly the sale of wine in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Section 6. If the Administration is of the opinion that prices or terms posted for any brand or type of wine are contrary to the requirements of section 4, it may report such fact to the Code Authority. If the Code Authority does not within ten days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of section 4.

Section 7. If, after investigation, the Code Authority finds that the sale of products of the industry exempted under the provisions of section 1 are not in conformity with the requirements as to prices and terms as set forth in section 4, it may, after notification to the member of the industry to discontinue such sale, report such findings to the Administration.

Section 8. If the Administration is of the opinion that the sale by any member of the industry of products exempted under the provisions of section 1 are not in conformity with the requirements as to prices and terms as set forth in section 4, it may report such findings to the Code Authority, and after ten days the Administration may declare such exemption of the products null and void and require a posting of prices and terms for such products by members of the industry, and thereafter take such action as it is empowered to take under section 6.

Section 9. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale as disclosed in the posted price list, is prohibited.

Section 10. The posting or publishing of any false or fictitious price list or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the fact thereof, or the withholding from any invoice of statements which properly should be included therein, so that in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE VII

Control of Plant Capacity and Production

Section 1. If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of wine is larger than the probable demand therefor, so as to tend to produce an excessive accumulation of stocks, excessive competition for sales, or other detrimental marketing conditions in the industry, and thereby tends to prevent the effectuation of the declared policy of the Act or the purposes of this Code, the Administration, after consultation with the Code Authority, may limit the production and distribution of wine and allocate the production thereof among the members of the industry, and may provide for the orderly distribution of accumulated stocks. If the Administration finds, after due notice and opportunity for hearing, that the current supply of any class or type of wine, is or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

ARTICLE VIII

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relative to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof, and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require their respective subsidiaries and affiliates to keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE IX

Code Authority

Section 1. There shall be a Code Authority composed of seven members as follows: three to be selected by the Western Code Committee, two by the Eastern Code Committee, and two (who shall not be members of the industry) by the Administration. The members of the Code Authority, selected by the respective Committees, shall be subject to the approval of the Administration. All members of the Code Authority shall be subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this code by members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration may from time to time request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violations of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. There shall be a Western Code Committee and an Eastern Code Committee selected by members of the industry who crush for wine grapes produced west and east of the Rocky Mountains, respectively. The members of each such Committee shall be selected by such members of the industry in accordance with a plan proposed by them and approved by the Administration. If either the western or eastern members of the industry fail to submit a plan within five days after the effective date of this code, then the respective Committee shall be selected in accordance with a plan prescribed by the Administration.

Section 3. The Western Code Committee and the Eastern Code Committee shall each have delegated to them such of the powers and duties vested in or imposed upon the Code Authority by the provisions of this Code as shall be provided in plans submitted by the respective Committees and approved by the Administration. Such plans shall provide, so far as practical, for the administration of this Code with respect to western and eastern members of the industry by the Western and Eastern Code Committees, respectively.

Section 4. The expenses of the Western and Eastern Code Committees, and of their representatives upon the Code Authority shall be borne by the western and eastern members of the industry, in accordance with plans submitted by the respective Code Committees and approved by the Administration. The expenses of the members of the Code Authority selected by the Administration shall be borne by the Administration.

ARTICLE X

Federal Alcohol Control Administration

Section 1. The Federal Alcohol Control Administration shall prescribe such regulations as may be provided for in this Code, or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer; and may make such interpretations of such provisions and such regulations as it deems necessary. Such regulations shall have the same force and effect as the provisions of this Code.

Section 2. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XI

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XII

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIII

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XIV

Application of Code to Other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the wine industry.

ARTICLE XV

Effective Date

Section 1. This Code shall be effective the day following its approval by the President of the United States.

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REVISÉD MARKETING AGREEMENT FOR

THE WINE INDUSTRY

as suggested

December 15, 1933

by

The President's Special Committee

on

Control of Alcohol

and

Alcoholic Beverages

LIBRARY
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★ JAN 1934

MARKETING AGREEMENT FOR

THE WINE INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting vintners and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended, -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909-July 1914, and in the case of tobacco, the base period being the post-war period, August 1919-July 1929;
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914;

And --

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto for the purpose of correcting conditions now existing, or likely to exist, in the marketing of domestic agricultural commodities ordinarily used in the wine industry, and of effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions

Section 1. As used in this Agreement, -

- (a) The term "Secretary" means the Secretary of Agriculture of the United States.
- (b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.
- (c) The term "person" means individual, partnership, corporation, association and any other business unit.
- (d) The term "wine" means wine as defined in Title 26, Sections 441 and 444 of the Code of Laws of the United States, as now in force or hereafter amended, and champagne, sparkling wine and artificially carbonated wine as defined by regulations of the Treasury Department, now or hereafter in effect.
- (e) The term "contracting vintner" means any person in the United States, a party signatory to this Agreement according to the terms thereof, who is engaged for commercial purposes in the production of wine, or the crushing of fresh grapes, or the making of must or grape concentrate, to be used for the production of wine.
- (f) The terms "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and Island of Guam.
- (g) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.
- (h) The term "subsidiary" means any person, of or over whom the contracting vintner has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.
- (i) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting vintner, whether by stock ownership or in any other manner, or a subsidiary thereof.
- (j) The term "Administration" means the Federal Alcohol Control Administration.
- (k) The term "Code Authority" means the Code Authority established pursuant to the provisions of the Code of Fair Competition for the Wine Industry.

ARTICLE III

Parity Price Plan

Section 1. There are hereby established a Western Grape Planning Committee and Eastern Grape Planning Committee. Each Committee shall be composed of 9 members as follows:

(a) Four members of the wine industry to be designated by the Western and Eastern Committees, respectively, established pursuant to the Code of Fair Competition for the Wine Industry.

(b) Four producers of grapes for wine, to be designated by the Western and Eastern producers of grapes for wine, respectively, in such manner as the Secretary shall prescribe.

(c) One representative of the Secretary, to be designated by him.

Section 2. Each Committee shall not later than May 1, 1934, report to the Secretary a draft of a plan to effectuate the purposes of the Act with respect to producers of grapes for wine. Each plan shall make such provisions as each committee deems necessary with respect to the control of the production of grapes for wine, the price to be paid therefor by members of the wine industry, the method of payment, and such other matters as are deemed advisable.

Section 3. Each Committee shall from time to time report to each other committee the development of the plans, and shall coordinate these plans to the extent necessary to effectuate the declared policy of the Act.

Section 4. The Secretary hereby agrees upon submission of the plans to him, to hold a public hearing or hearings thereon, at such times and places as he shall determine; and thereafter to approve such plans, or such plans as modified by him to the extent necessary to effectuate the purposes of the Act with respect to producers of grapes for wine. The contracting vintners hereby agree that the plans so approved by the Secretary shall have the same force and effect as the provisions of this Agreement and shall be deemed to be incorporated into and to be provisions of this Agreement.

ARTICLE V

Reports

Section 1. The contracting vintners shall severally, from time to time, upon the request of the Administration or the Secretary, furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration or the Secretary in the furtherance of their powers and duties with respect to this Agreement, or (2) enabling the Administration or the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Section 2. The contracting vintners also severally agree that, for the same purposes, or to enable the Administration or the Secretary to verify the information furnished on said forms of report, all their books and records and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration or the Secretary.

Section 3. The contracting vintners shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial conditions thereof, and shall require their respective affiliates and subsidiaries to keep such books and records.

Section 4. All information furnished the Administration or the Secretary pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration or the Secretary, respectively.

ARTICLE VI

Administration

Section 1. The provisions of this Agreement, except as otherwise provided, shall be administered by the Federal Alcohol Control Administration.

Section 2. The Administration and the Secretary shall each prescribe such regulations as may be reasonably necessary to carry out their respective functions under the provisions of this Agreement, and may make such interpretations of such provisions and regulations as they respectively deem necessary. Such regulations shall have the same force and effect as the provisions of this Agreement.

Section 3. The Secretary of Agriculture may transfer to the Administration or any agency of the Government whose services the Administration may utilize in administering its functions under this Agreement, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or any such agencies in carrying out the provisions of this Agreement.

Section 4. The contracting vintners agree, through the agency of the Code Authority and the Code Committees established pursuant to the Code of Fair Competition for the Wine Industry, to cooperate with the Administration and the Secretary in carrying out this Agreement, and to this end the Code Committees shall have the following powers and duties: (a) to act as agencies through which the contracting vintners may make recommendations to effectuate the declared policy of the Act; and (b) to serve as agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration. In addition, the Code Authority and the Code Committees shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority or the Code Committees shall be deemed to limit the powers of the Administration.

Section 5. The Administration shall report to the Attorney General and the Secretary, for appropriate action by them, the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VII

Licensing

Section 1. The contracting vintners hereby apply for the consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VIII

Effective Time

Section 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon request of 75 percent of the contracting vintners, such percentage to be measured by the volume of wine produced, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE IX

Immunities.

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting vintner from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition entered into or issued pursuant to Act of Congress.

ARTICLE X

Counterparts.

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XI

Additional Parties.

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the production of wine, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XII

Agents

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agents in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XIII

Signatures of Parties

IN WITNESS WHEREOF, the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have the power to enter into marketing agreements with processors, associations, of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful; Provided, That no such agreement shall remain in force after the termination of this Act;

And --

WHEREAS, due notice and opportunity for hearing to interested parties have been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

WHEREAS, the Secretary finds (1) that the contracting vintners are engaged in the handling of wine in the current of interstate and foreign commerce; and (2) that the conditions existing in the marketing in intrastate commerce of wine and commodities used for the manufacture of wine burden the marketing of wine in interstate and foreign commerce; and (3) that the marketing of such commodities and wine in intrastate commerce is inextricably intermingled with their marketing and distribution in interstate and foreign commerce; and

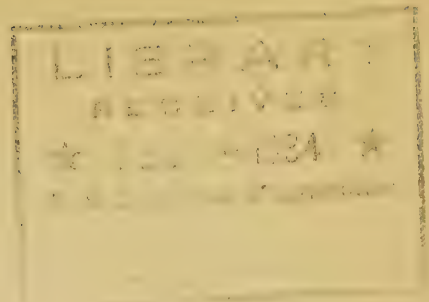
WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth;

NOW, THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time,

(SEAL)

Secretary of Agriculture.

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MARKETING AGREEMENT

FOR

THE WINE INDUSTRY

It is hereby certified that the document attached hereto is a true and correct copy of the above named Marketing Agreement as tentatively approved by the Secretary of Agriculture.

Ammon McClellan
Chief Hearing Clerk
Department of Agriculture

TA 1/8/34

MARKETING AGREEMENT FOR

THE WINE INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting vintners and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended, -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909-July 1914, and in the case of tobacco, the base period being the post-war period, August 1919-July 1929;
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914;

And --

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto for the purpose of correcting conditions now existing, or likely to exist, in the marketing of domestic agricultural commodities ordinarily used in the wine industry, and of affectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "wine" means wine as defined in Title 26, Sections 441 and 444 of the Code of Laws of the United States, as now in force or hereafter amended, and champagne, sparkling wine and artificially carbonated wine all the foregoing as defined by regulations of the Treasury Department, now or hereafter in effect.

(e) The term "contracting vintner" means any person in the United States, a party signatory to this Agreement according to the terms thereof, who is engaged for commercial purposes in the production of wine, or the crushing of fresh grapes, or the making of must or grape concentrate, to be used for the production of wine.

(f) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and Island of Guam.

(g) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(h) The term "subsidiary" means any person, of or over whom, the contracting vintner has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(i) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting vintner, whether by stock ownership or in any other manner, or a subsidiary thereof.

(j) The term "Administration" means the Federal Alcohol Control Administration.

(k) The term "Code Authority" means the Code Authority established pursuant to the provisions of the Code of Fair Competition for the Wine Industry.

ARTICLE III

Parity Price Plan

Section 1. There are hereby established a Western Grape Planning Committee and Eastern Grape Planning Committee. Each Committee shall be composed of 9 members as follows:

- (a) Four members of the wine industry to be designated by the Western and Eastern Committees, respectively, established pursuant to the Code of Fair Competition for the Wine Industry.
- (b) Four producers of grapes for wine, to be designated by the Western and Eastern producers of grapes for wine, respectively, in such manner as the Secretary shall prescribe.
- (c) One representative of the Secretary, to be designated by him.

Section 2. Each Committee shall not later than May 1, 1934, report to the Secretary a draft of a plan to effectuate the purposes of the Act with respect to producers of grapes for wine. Each plan shall make such provisions as each committee deems necessary with respect to the control of the production of grapes for wine, the price to be paid therefor by members of the wine industry, the method of payment, and such other matters as are deemed advisable.

Section 3. Each Committee shall from time to time report to each other committee the development of the plans, and shall coordinate these plans to the extent necessary to effectuate the declared policy of the Act.

Section 4. The Secretary hereby agrees upon submission of the plans to him, to hold a public hearing or hearings thereon, at such time and places as he shall determine; and thereafter to approve such plans, or such plans as modified by him to the extent necessary to effectuate the purposes of the Act with respect to producers of grapes for wine. The contracting vintners hereby agree that the plans so approved by the Secretary shall have the same force and effect as the provisions of this Agreement and shall be deemed to be incorporated into and to be provisions of this Agreement.

ARTICLE IV

Reports

Section 1. The contracting vintners shall severally, from time to time, upon the request of the Administration or the Secretary, furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration or the Secretary in the furtherance of their powers and duties with respect to this Agreement, or (2) enabling the Administration or the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Section 2. The contracting vintners also severally agree that, for the same purposes, or to enable the Administration or the Secretary to verify the information furnished on said forms of report, all their books and records and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration or the Secretary.

Section 3. The contracting vintners shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial conditions thereof, and shall require their respective affiliates and subsidiaries to keep such books and records.

Section 4. All information furnished the Administration or the Secretary pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration or the Secretary, respectively.

ARTICLE I

Administration

Section 1. The provisions of this Agreement, except as otherwise provided, shall be administered by the Federal Alcohol Control Administration.

Section 2. The Administration and the Secretary shall each prescribe such regulations as may be reasonably necessary to carry out their respective functions under the provisions of this Agreement, and may make such interpretations of such provisions and regulations as they respectively deem necessary. Such regulations shall have the same force and effect as the provisions of this Agreement.

Section 3. The Secretary of Agriculture may transfer to the Administration or any agency of the Government whose services the Administration may utilize in administering its functions under this Agreement, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or any such agencies in carrying out the provisions of this Agreement.

Section 4. The contracting vintners agree, through the agency of the Code Authority and the Code Committees established pursuant to the Code of Fair Competition for the Wine Industry, to cooperate with the Administration and the Secretary in carrying out this Agreement, and to this end the Code Committees shall have the following powers and duties: (a) to act as agencies through which the contracting vintners may make recommendations to effectuate the declared policy of the Act; and (b) to serve as agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration. In addition, the Code Authority and the Code Committees shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority or the Code Committees shall be deemed to limit the powers of the Administration.

Section 5. The Administration shall report to the Attorney General and the Secretary, for appropriate action by them, the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VI

Licensing.

Section 1. The contracting vintners hereby apply for, and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VII

Effective Time

Section 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon request of 75 per cent of the contracting vintners, such percentage to be measured by the volume of wine produced, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE VIII

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting vintner from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition entered into or issued pursuant to Act of Congress.

ARTICLE IX

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE X

Additional Parties

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the production of wine, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XI

Agents

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agents in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XII

Signatures of Parties

IN WITNESS WHEREOF, the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have herunto set their respective hands and seals.

Name of Firm

By _____

Title

Title

Attest _____

Seal - If Corporation

WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have the power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful; Provided, That no such agreement shall remain in force after the termination of this Act;

And --

WHEREAS, due notice and opportunity for hearing to interested parties have been given pursuant to the provisions of the Act, and the regulations issued thereunder; and

WHEREAS, the Secretary finds (1) that the contracting vintners are engaged in the handling of wine in the current of interstate and foreign commerce; and (2) that the conditions existing in the marketing in intrastate commerce of wine and commodities used for the manufacture of wine burden the marketing of wine in interstate and foreign commerce; and (3) that the marketing of such commodities and wine in intrastate commerce is inextricably intermingled with their marketing and distribution in interstate and foreign commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth;

NOW, THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____ 1934, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____ 1934.

(SEAL)

Secretary of Agriculture.

AUTHORIZATION TO CORRECT TYPOGRAPHICAL ERRORS
TO BE EXECUTED BY ALL SIGNERS

We, the undersigned, hereby authorize L. D. Mallory to consent on our behalf to the correction of any typographical errors which the Agricultural Adjustment Administration may consider it advisable to make in the Marketing Agreement for the Wine Industry.

| | |
|----------|------------------|
| _____ | _____ |
| Date | Firm Name |
| By _____ | |
| _____ | _____ |
| Name | Title -- SEAL |
| | (If corporation) |

Corporations only

CERTIFICATION OF RESOLUTION

At a duly convened meeting of the Board of Directors of

_____ held at
_____ on the _____ day of
_____, 1934, the following resolution was adopted:

RESOLVED, that _____
shall become a party to the Marketing Agreement for the Wine Industry, as read and explained to the meeting, and it is further RESOLVED, that
_____ (title)

and _____ (title), be, and hereby
are authorized and directed to sign, execute, and deliver a counterpart of said Agreement attached hereto, to the Secretary of Agriculture, together with an authorization naming L. D. Mallory to correct typographical errors.

I, _____ Secretary of

_____ do hereby certify
that this is a true and correct copy of a resolution adopted at the above named meeting, as said resolution appears in the minutes thereof.

Address of firm

SEAL

AND SEAL AT SIGNATURE LINE IN BODY OF CONTRACT.

This sheet is to be filled in by all vintners. The information will be used in determining the percentage of the industry signing the agreement. The information is not to be used for other purposes and has no reference to the issuance of permits, taxation, or election of the code authority for the wine code.

The _____ Company
of _____ has the following
capacity and manufactures the following:

Annual Production Capacity

| Capacity, 1933 | | Expected Capacity, 1934 | |
|------------------------|---------------------------|-------------------------|---------------------------|
| Wine (Wine Gallons) | Brandy (Proof Gallons) | Wine (Wine Gallons) | Brandy (Proof Gallons) |

Production

| Production, 1933 | | Expected Production, 1934 | |
|------------------------|---------------------------|---------------------------|---------------------------|
| Wine (Wine Gallons) | Brandy (Proof Gallons) | Wine (Wine Gallons) | Brandy (Proof Gallons) |

I certify that the
above is a true and correct statement.

Signed.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

SUBSTITUTE FOR THE
PROPOSED
CODE OF FAIR COMPETITION FOR THE
WINE INDUSTRY
AS SET FOR HEARING ON
DECEMBER 13, 1933.

This document has been filed with the Chief Hearing Clerk, Agricultural Adjustment Administration, as a tentative substitute for the proposed Code of Fair Competition for the Wine Industry, other than the labor provisions, which have been set for hearing on Wednesday, December 13, 1933. The substitute will be offered for the record, on behalf of the President's Special Committee on the Control of Alcohol and Alcoholic Beverages, at the hearing upon the proposed Code of Fair Competition. The substitute is presented as a basis for developing evidence at the hearing with respect to the policies incorporated in the substitute, and is not to be regarded as an expression of the final views of the Special Committee.

CODE OF FAIR COMPETITION FOR THE
WINE INDUSTRY.

(Exclusive of Provisions Relating
to hours of Labor, Rates of Pay,
and other Conditions of Employ-
ment.)

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section I of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources -

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements

until such time as Congress may consider appropriate legislation relating to such industries --

NOW THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the wine industry (exclusive of provisions relating to hours of labor, rates of pay and other conditions of employment), and upon approval by the President shall constitute standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the approval of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the wine industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of wine in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code, --

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The terms "wine industry" and "industry" mean (1) the production of wine, or (2) the crushing of fresh grapes or making of must to be used for the production of wine, or (3) the fortification of wine, or (4) the blending, bottling, warehousing, or other handling or distribution of wine or the sale or other disposition thereof except at retail, by a vintner or an affiliate or subsidiary thereof.

(e) The term "wine" means natural, pure sweet, and fortified wine for beverage use, including all dilutions and mixtures thereof and sparkling and artificially carbonated wine.

(f) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.

(g) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(h) The term "employer" means any person by whom any such employee is compensated or employed.

(i) The term "member of the industry" means any person engaged in the wine industry as an employer or on his own behalf.

(j) The term "Administration" means the Federal Alcohol Control Administration.

(k) The term "Director" means the director of the Federal Alcohol Control Administration.

(l) The term "Code Authority" means the industry authority established pursuant to this Code.

(m) The term "United States" includes the several States and Territories, the District of Columbia and Puerto Rico.

(n) The term "State" includes Territory and the District of Columbia.

(o) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(p) The term "subsidiary" means any person, of or over whom, a member of the industry has either, directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(q) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

(r) The term "trade buyer" means any buyer of wine, except an ultimate consumer.

ARTICLE III

Mandatory Labor Requirements

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. No person shall engage in the wine industry except pursuant to a permit issued by the director. Subject to the provisions of section 2 of this Article, each member of the industry entitled to the use of plant capacity under Article VIII of this code, shall be entitled to have a permit issued to him upon application therefor, and such permit shall remain in effect during the duration of this Code, unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business; or any right to engage in the manufacture or distribution of wine after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the director, with the approval of the Administration, for violation of any term or condition thereof.

Section 3. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any wine. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any wine that is misbranded. Wine shall be deemed to be misbranded -

(a) Food and Drugs Requirements. If it is misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If the container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

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(c) Standards of Identity. If it purports to be or is represented as wine for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) Standards of Quality. If it purports to be or is represented as wine for which standards of quality have been prescribed by regulations of the Administrator, and (1) fails to state on the label, if so required by the regulations, the standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) Label Requirements. If in package form and it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purpose of this subsection shall be prescribed by the Administration, but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase wine from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

Section 4. Consignment. The making of or entering into any agreement or contract the effect of which will amount to the shipment or delivery of wine on consignment. "Consignment", as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper and whereby the title to such products remains in the shipper.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay or make an allowance to a trade buyer for a special advertising or distribution service (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same class in the same trade area; and (e) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Control of Retail Outlets.

(a) Retail Licenses. To hold the ownership, directly or indirectly, after the expiration of existing licenses, of any interest

in any license to sell wine for consumption on the premises covered by such licenses. Nothing herein contained shall apply to licenses issued to members of the industry to give away or sell wine on premises of which the winery is a part.

(b) Loans and Guarantees. To furnish, give or lend any money or other thing of value, directly or indirectly or through a subsidiary or affiliate or by any officer, director, or firm member of the industry, to any person engaged in selling wine for consumption on the premises where sold, or to any person for the use, benefit or relief of said person engaged in selling as above; or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. Nothing herein contained shall affect the extension of usual and ordinary commercial credits for wine sold and delivered.

(c) Equipment and Fixtures. To furnish, give, rent, lend, or sell any equipment, fixtures, or supplies, directly or indirectly or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, to any person engaged in selling wine for consumption on the premises where sold.

(d) Signs. (1) To furnish, give, lend or rent any interior decoration other than signs, or to furnish, give, lend or rent any sign or signs, for inside or outside use, costing collectively more than \$100 in any one calendar year by any member of the industry, directly or indirectly or through a subsidiary or affiliate, or by any officer, director, or firm member of any member of the industry, for use in or about or in connection with any one establishment on which wine is sold for consumption on the premises where sold.

(2) To pay money or other thing of value for the privilege of placing or painting a sign on the premises occupied by anyone selling wine for consumption on the premises where sold.

(e) Ownership of Real Estate. To hold any interest in any premises acquired after the effective date of this Code on which products are sold at retail for consumption on the premises where sold unless the holding of such interest is permitted under regulations of the Administration, or a statement of the holding thereof has been filed with the Administration and has not been disapproved by it.

Section 7. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the sellers price,

Section 8. Exclusive Outlets. To exact or require, by contract understanding or otherwise, that any retail trade buyer handle or sell only the wine of a particular member of the industry.

Section 9. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement, except advertising novelties of nominal value, to either trade or consumer buyers.

- 1 -

Section 10. Sales to Unauthorized Venders. After notification by the Code Authority, to sell or otherwise dispose of wine to any person who has been declared by the Code Authority to be not authorized by license in full force and effect, to sell, manufacture or distribute such wine, if such a license is required of such person by State law.

Section 11. Violations of State Law. To transport or import wine into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

ARTICLE VI

Bottling

Section 1. Members of the industry shall sell or dispose of products in bottles only, except in case of sales to other members of the industry, to manufacturers of food products, or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export, or for shipment in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering wine in bond, provided such receipts require the bottling of the wine prior to removal from the warehouse.

ARTICLE VII

Prices and Terms of Sale

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of wine offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale (other than usual periods of credit) of such wine. Such prices and terms shall not be effective until 10 days after they have been posted as aforesaid.

Section 2. The Code Authority shall file with the Administration a copy of each price list so posted and the Code Authority shall, upon request, make available such price lists to the trade and consumer buyers.

Section 3. No sale or other disposition of wine shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

Section 4. No member of the industry shall post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage directly or indirectly the sale of wine in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Section 6. If the Administration is of the opinion that the prices or terms posted for any class or type of wine are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within ten days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Section 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

Section 8. The posting or publishing of any false or fictitious price list or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE VIII

Control of Plant Capacity and Production

Section 1. No member of the industry shall utilize for the production of wine plant capacity in excess of that held by him or under actual process of construction or in process of equipment by him on the date of the repeal of the Eighteenth Amendment or on the effective date of this Code, whichever is the earlier; except that any person may utilize for the production of wine plant capacity acquired or constructed by him in addition to the foregoing if in the judgment of the Administration, after due notice and opportunity for hearing, such additional utilization of plant capacity is necessary to meet the consumptive demands for wine of any class or type. Nothing in this section shall be construed to prevent any person from constructing new plant capacity to replace abandoned or destroyed plant capacity which would be utilized under the provisions of this section.

Section 2. If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of wine is larger than the probable demand therefor, so as to tend to produce an excessive accumulation of stocks, excessive competition for sales, or other detrimental marketing conditions in the industry, and thereby tends to prevent the effectuation of the declared policy of the Act, or the purposes of this Code, the Administration, in consultation with the Code Authority, may, notwithstanding the provisions of section 1, limit the production and distribution of wine and allocate the production thereof among the members of the industry, and may provide for the orderly distribution of accumulated

stocks. If the Administration finds, after due notice and opportunity for hearing, that the current supply of any class or type of wine, is or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

ARTICLE IX

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relative to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall see to it that their respective subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE X

Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this code by members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration may from time to time request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violations of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. If the members of the industry fail to submit a plan under section 1 within five days after the effective date of this Code, or if the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XI

Federal Alcohol Control Administration

Section 1. The Federal Alcohol Control Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code, which it is authorized to administer, and may make such interpretations of such provisions and such regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XII

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIII

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIV

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XV

Application of Code to other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and effect only that part of the business of such member of the industry which is included in the wine industry.

ARTICLE XVI

Effective Date

Section 1. This Code shall be effective the day following its approval by the President of the United States.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED MARKETING
AGREEMENT FOR THE
WINE INDUSTRY.

This proposed Marketing Agreement for the Wine Industry which has been prepared by and incorporates the policies of the President's Special Committee on Control of Alcohol and Alcoholic Beverages, is proposed for hearing by the Secretary of Agriculture upon his own motion. The hearing is set for Wednesday, December 13, 1933. The proposed Agreement is not to be regarded as an expression of the final views of the President's Special Committee.

MARKETING AGREEMENT FOR THE

WINE INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting vintners and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended, -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909 - July 1914, and in the case of tobacco, the base period being the post-war period, August 1919 - July 1929;
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 - July 1914; - and -

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now existing, or likely to exist, in the marketing of domestic agricultural commodities ordinarily used in the wine industry, and of effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions.

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "wine" means natural, pure sweet, and fortified wine for beverage use, including all dilutions and mixtures thereof and sparkling and artificially carbonated wine.

(e) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.

(f) The term "contracting vintner" means any person, a party signatory to this Agreement according to the terms thereof, who is engaged in the production of wine in the United States.

(g) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and Island of Guam.

(h) The term "books and records" means any books records, accounts contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting vintner has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting vintner, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcohol Control Administration.

(l) The term "Code Authority" means the Code Authority established pursuant to the provisions of the Code of Fair Competition for the Wine Industry.

ARTICLE III

Use of Grapes and Grape Products

Section 1. Except as provided in section 2 of this Article, each contracting vintner agrees to manufacture the wine produced by him exclusively from fresh grapes or their products.

Section 2. In order to make available an adequate supply of materials to be used in the manufacture of the various classes of wine, special permits may be issued by the Secretary in his discretion to any contracting vintner to purchase and use fruit other than fresh grapes or their products in the manufacture of wine. The Secretary shall specify in any such permit the fruit and the quantity permitted to be so used, the period during which it may be so used, and such other terms and conditions as may be necessary.

ARTICLE IV

Parity Price Plan

Section 1. There is hereby established a Grape Planning Committee to be composed of seven members as follows:

(a) Three members of the wine industry whom the contracting vintners hereby agree to designate through the agency of the Code Authority.

(b) Three representatives of producers of grapes for wine to be designated by such producers in such manner as the Secretary shall prescribe.

(c) One representative of the Secretary of Agriculture to be designated by him.

Section 2. The Committee shall not later than May 1, 1934, report to the Secretary a draft of a plan to effectuate the purposes of the Act with respect to producers of grapes. The plan shall make such provisions as the Committee deems necessary with respect to the control of the production of grapes for wine, the price to be paid therefor by members of the wine industry and the method of payment, and such other matters as are deemed advisable.

Section 3. The Secretary hereby agrees upon submission of the plan to him, to hold a public hearing thereon, at such time and place as he shall determine; and thereafter to approve such plan or such modified or substitute plan as he finds will effectuate the purposes of the Act with respect to producers of grapes. The contracting vintners hereby agree that the plan approved by the Secretary shall have the same force and effect as the provisions of this Agreement and shall be deemed to be incorporated into and made a part of this Agreement.

ARTICLE V

Reports

Section 1. The contracting vintners shall severally, from time to time, upon the request of the Administration or the Secretary, furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration or the Secretary in the furtherance of their powers and duties with respect to this Agreement, or (2) enabling the Administration or the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Section 2. The contracting vintners also severally agree that, for the same purposes, or to enable the Administration or the Secretary to verify the information furnished on said forms of report, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration or the Secretary.

Section 3. The contracting vintners shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial conditions thereof, and shall require their respective affiliates and subsidiaries to keep such books and records,

Section 4. All information furnished the Administration or the Secretary pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration or the Secretary respectively.

ARTICLE VI

Administration

Section 1. The provisions of this Agreement, except as otherwise provided, shall be administered by the Federal Alcohol Control Administration.

Section 2. The Administration and the Secretary shall each prescribe such regulations as may be reasonably necessary to carry out their respective functions under the provisions of this Agreement, and may make such interpretations of such provisions and regulations as they respectively deem necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

Section 3. The Secretary of Agriculture may transfer to the Administration or any agency of the Government whose services the Administration may utilize in administering its functions under this Agreement, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or any such agencies in carrying out the provisions of this Agreement.

ARTICLE IX

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting distiller from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition entered into or issued pursuant to Act of Congress.

ARTICLE X

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XI

Additional Parties

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the production of wine, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such now contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such now contracting party.

ARTICLE XII

Agents

Section 1. The Secretary or the Administration may by designation

in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XIII

Signatures of Parties

IN WITNESS WHEREOF the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful; Provided, That no such agreement shall remain in force after the termination of this Act;

And --

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

WHEREAS, the Secretary finds (1) that the contracting vintners are engaged in the handling of wine in the current of interstate and foreign commerce; and (2) that the conditions existing in the marketing in intrastate commerce of wine and commodities used for the manufacture of wine burden and marketing of wine in interstate and foreign commerce; and (3) that the marketing of such commodities and wine in intrastate commerce is inextricable intermingled with their marketing and distribution in interstate and foreign commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth:

NOW, THEREFORE, I Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____.

(SEAL)

Secretary of Agriculture.